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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia, Austria, Bulgaria, Denmark*, France, Hungary, Ireland*, Italy, Japan, Norway*, Poland, Slovenia*, Sweden*, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay: draft resolution

Situation of human rights in the territory of the former Yugoslavia: Violations of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The Commission on Human Rights,

Mindful of its duty to promote and encourage respect for human rights and fundamental freedoms for all, and to prevent violations of such rights,

Dismayed by the continuing human tragedy in the Republic of Bosnia and Herzegovina, the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Croatia, and by the massive and systematic violations of human rights, especially in Bosnia and Herzegovina, where whole populations remain victim to terrorization and harassment, particularly, though not

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

exclusively, on territory controlled by Bosnian Serb and Bosnian Croat forces, as documented in the reports of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1994/110),

Concerned also at continuing impediments to the full exercise of human rights and fundamental freedoms in the countries of the area, even in territories distant from armed conflict,

Moved by the horrible massacre at the Markale market of Sarajevo on 5 February 1994, and encouraged by the outpouring of international revulsion at it and the resulting renewal of the international community's determination to bring a peaceful, just and lasting resolution to the conflict in Bosnia and Herzegovina,

Repelled by the odious practice of "ethnic cleansing" whose principal victims are the Muslim population, carried out in particular by Bosnian Serbs as well as by Bosnian Croat extremists, and emphasizing the right of all its victims to return to their homes and the invalidity of territorial gains resulting from that practice, as well as of forced transfers of property and other acts under duress,

Deeply concerned that rape and other forms of inhuman and degrading treatment of women and children continue to be used as a deliberate instrument of war and "ethnic cleansing", particularly in the Republic of Bosnia and Herzegovina,

Dismayed by the huge number of missing persons still unaccounted for, particularly in Bosnia and Herzegovina and in the Republic of Croatia,

Deeply concerned about the situation of human rights in Serbia and Montenegro, particularly in Kosovo but also in the Sandjak and in Vojvodina,

Noting with special appreciation the continuing efforts of the Special Rapporteur and those under his direction,

Also noting with appreciation the report by the Secretary-General entitled "Rape and abuse of women in the areas of armed conflict in the former Yugoslavia", contained in document A/48/858 dated 29 January 1994,

Grateful as well for the work of the special mechanisms of the Commission on Human Rights and all those involved in the humanitarian relief effort, including the Office of the United Nations High Commissioner for Refugees, the

International Committee of the Red Cross, and the officers and men of the United Nations Protection Force (UNPROFOR), and encouraging the continuing

efforts of all who seek to bring about a peaceful resolution to the conflict, the International Conference on the Former Yugoslavia, its co-Chairmen and Steering Committee,

Recalling its resolutions 1993/7 and 1993/8 of 23 February 1993, 1992/S-1/1 of 14 August 1992 and 1992/S-2/1 of 1 December 1992, General Assembly resolutions 48/143 and 48/153 of 20 December 1993 and the relevant resolutions of the Security Council,

Recalling also the decision adopted by the World Conference on Human Rights on 15 June 1993 to appeal to the Security Council to take the necessary measures to end the genocide taking place in Bosnia and Herzegovina,

1. Expresses its deep appreciation to the Special Rapporteur for his tenacity in fulfilling his mandate under the most trying circumstances, and for the light shed by his important reports, in particular his latest report (E/CN.4/1994/110);

2. Deplores and condemns the continual refusal of the Bosnian Serb authorities to permit the Special Rapporteur to conduct investigations in territory under their control;

3. Reaffirms the responsibility of all parties to the conflict to find peaceful solutions through negotiations and to protect fully human rights at all times;

4. Condemns categorically all violations of human rights and international humanitarian law by all sides and, while recognizing that primary responsibility for most of these violations is borne by the leadership in territory under Serb control and the political and military leaders in the Federal Republic of Yugoslavia (Serbia and Montenegro), notes that violations have been committed by all of the parties to the conflict;

5. Demands immediate, firm and resolute action by the international community to stop all human rights violations, including "ethnic cleansing" genocidal acts, rape and abuse of women as an instrument of war, strangulation of cities in Bosnia, shelling and killing of civilians, torture, arbitrary executions, and enforced and involuntary disappearances, to secure a just and lasting peace in Bosnia and Herzegovina, and to bring war criminals to trial;

6. Expresses alarm at the Special Rapporteur's findings that the influence of ultranationalist ideologies is growing, and that indoctrination and misinformation encourage national and religious hatred, and deplores

the fact that, in the climate of ultranationalism engendered by such indoctrination and misinformation, atrocities are being committed by all parties;

7. Denounces continued deliberate and unlawful attacks and uses of military force against civilians and other protected persons by all sides, recognizing that the primary though not the sole responsibility lies with the Serbian forces, and condemns particularly:

(a) The besieging of cities and other civilian areas, and the deliberate, murderous shelling thereof, particularly of the declared "safe areas";

(b) The systematic terrorization and murder of civilians and non-combatants;

(c) The destruction of vital services;

(d) The use of military force against relief operations;

(e) The intentional destruction of mosques, churches and other places of worship and the desecration of cemeteries;

(f) Other attacks upon civilians; and

(g) The forced conscription, by any party, of internally displaced persons and of refugees in disregard of their protected status;

8. Condemns anew the heinous acts identified by the Special Rapporteur as elements of "ethnic cleansing", and urges the international community to use all its influence on all the parties to the conflict, in particular the Federal Republic of Yugoslavia (Serbia and Montenegro) and the authorities in those parts of Croatia and Bosnia and Herzegovina under Serbian control, as well as Croatian extremists in Bosnia and Herzegovina, to end "ethnic cleansing" immediately and to reverse its effects, recognizing especially the right of any victims to return to their homes and the invalidity of territorial gains resulting from that practice, as well as of forced transfers of property and other acts under duress;

9. Acknowledges the effort of some local authorities in areas under control of the Government of Bosnia and Herzegovina to avoid actions associated with "ethnic cleansing", as reported by the Special Rapporteur;

10. Reaffirms that the practice of "ethnic cleansing" should in no way be legitimized;

11. Condemns all deliberate impeding of the delivery of food, medical and other supplies essential for the civilian population, which can constitute a

serious violation of international humanitarian law, and of medical evacuations, and demands that all parties ensure that all persons under their control cease such acts;

12. Also condemns the attacks on and continuous harassment of the United Nations Protection Force and on personnel working with the UNHCR and other humanitarian organizations, which have caused injuries and deaths of those who seek to protect civilians and to deliver humanitarian assistance;

13. Expresses its deep concern at the traumatic impact of the armed conflict and resultant social upheaval on the children of the area, in both the short and the long term, as described in the Special Rapporteur's latest report;

14. Expresses its outrage that the systematic practice of rape continues to be used as a weapon of war against women and children and as an instrument of "ethnic cleansing", and recognizes that rape in these circumstances constitutes a war crime;

15. Welcomes the assistance which has been provided to the victims of such rape and abuse for their physical and mental rehabilitation and urges States, local communities, and relevant intergovernmental and non-governmental organizations to provide further assistance as required;

16. Also welcomes the establishment of the International Tribunal for prosecuting serious violations of international humanitarian law committed in the territory of the former Yugoslavia pursuant to Security Council resolution 827 (1993) of 25 May 1993, and urges that all States provide all necessary and appropriate support to the Tribunal;

17. Reaffirms that all persons who perpetrate or authorize violations of international humanitarian law are individually responsible and accountable, and that the international community will exert all efforts to bring them to justice in accordance with internationally recognized principles of due process;

18. Urges the Special Rapporteur, all United Nations bodies, including the United Nations Protection Force and the United Nations human rights treaty bodies, specialized agencies, Governments and informed intergovernmental and non-governmental organizations to cooperate fully with the Prosecutor of the International Tribunal and to provide him on a continuing basis with all relevant and accurate information in their possession related to his task;

19. Urges all States and responsible authorities to cooperate with the efforts of the International Tribunal, including by the provision of substantiated information and the apprehension of persons accused of violations of international humanitarian law for trial in cooperation with the Tribunal and in accordance with internationally accepted norms of due process;

20. Commends the efforts of the Commission of Experts established pursuant to Security Council resolution 780 (1993), to examine and analyse evidence of violations of international humanitarian law, and of those States, United Nations bodies, specialized agencies and organizations that have provided pertinent information to the Commission of Experts;

21. Demands the immediate internationally-supervised release of all persons arbitrarily or otherwise illegally detained and the immediate closure of all places of detention not authorized by and in compliance with the Geneva Conventions of 12 August 1949;

22. Reiterates its demand that all parties immediately notify the International Committee of the Red Cross of the locations of all camps, prisons and other places of detention, and that there be immediate, unimpeded and continued access to such places by the International Committee of the Red Cross, the Special Rapporteur and other relevant international and regional organizations;

23. Urges all parties, and in particular the Governments of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), to cooperate in determining the fate of thousands of missing persons by disclosing all information and documentation in order finally to locate such persons and alleviate the suffering of their relatives;

24. Notes with interest the proposal contained in the report on the visit to former Yugoslavia of a member of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26/Add.1), to establish a special procedure concerning the question of enforced disappearances in the territory of the former Yugoslavia under the joint responsibility of a member of the Working Group and the Special Rapporteur;

25. Expresses its grave concern at the deteriorating human rights situation in the Federal Republic of Yugoslavia (Serbia and Montenegro), particularly in Kosovo, as described by the Special Rapporteur, and again condemns the violations of human rights occurring there;

26. Strongly condemns in particular the measures and practices of discrimination against and the violations of the human rights of the ethnic Albanians of Kosovo, as well as the large-scale repression committed by the Serbian authorities, including:

(a) Police brutality against ethnic Albanians, arbitrary searches, seizures and arrests, torture and ill-treatment during detention and discrimination in the administration of justice, which leads to a climate of lawlessness in which criminal acts, particularly against ethnic Albanians, take place with impunity;

(b) The exclusion of ethnic Albanians from positions in the police and in the judiciary, as well as from professional, administrative and other skilled positions in State-owned enterprises and public institutions, including teachers from the Serb-run school system, and the closure of the Albanian university and high schools;

(c) Arbitrary imprisonment of ethnic Albanian journalists, the closure of Albanian-language mass media and the discriminatory removal of ethnic Albanian staff from local radio and television stations;

(d) Repression by the Serbian police and military;

27. Demands that the Federal Republic of Yugoslavia (Serbia and Montenegro) respect the human rights and fundamental freedoms of ethnic Albanians in Kosovo and declares that the best means to prevent the possible escalation of the conflict is to safeguard human rights, restore the autonomy of Kosovo and to establish democratic institutions in Kosovo;

28. Expresses its grave concern at the Special Rapporteur's reports of violations of human rights in the Sandjak, including physical harassment, abductions, the burning of homes, warrantless searches, confiscations and other practices intended to change the ethnic structure in favour of the Serbian

population, and in Vojvodina, while commending the courage and sacrifice of many Serbs who refuse to take part in such violations;

29. Urges all parties in Serbia and Montenegro, particularly in Kosovo, the Sandjak and Vojvodina, to engage in a substantive dialogue, inter alia under the auspices of the International Conference on the Former Yugoslavia, and to act with the utmost restraint and settle disputes with full respect for human rights, and calls on the Serbian authorities to prevent extension of the conflict by refraining from the use of force and by respecting fully the rights of persons belonging to minority groups;

30. Demands that the Federal Republic of Yugoslavia (Serbia and Montenegro) permit entry into Kosovo, the Sandjak and Vojvodina of United Nations observer missions and field officers of the Special Rapporteur and resumption of the missions of long duration of the Conference on Security and Cooperation in Europe;

31. Expresses its continued concern that, despite the considerable decrease in violations of international humanitarian law in the Republic of Croatia, there continue to be serious human rights violations and patterns of discriminatory treatment against minority groups, as well as arbitrary practices on the part of the Croatian authorities;

32. Condemns the continuation of "ethnic cleansing" in areas under the control of the self-proclaimed Serbian authorities in the United Nations Protected Areas and the continued shelling of civilian areas, especially in the vicinity of the Dalmatian coast;

33. Notes with interest the observations of the Special Rapporteur regarding the human rights situation in the Former Yugoslav Republic of Macedonia, in particular his conclusion that mutual understanding and trust among all citizens of that Republic, regardless of their ethnic origin, is an essential condition for the enjoyment of human rights in that country, and decides to continue to monitor developments there;

34. Notes with appreciation the observations of the Special Rapporteur regarding the further improvement of the human rights situation in the Republic of Slovenia and decides that the Republic of Slovenia should be excluded from the mandate of the Special Rapporteur;

35. Notes with concern that many of the Special Rapporteur's past recommendations have not been fully implemented, in some cases because of resistance by the parties on the ground, and urges the parties, all States and relevant organizations to give immediate consideration to them, in particular the Special Rapporteur's calls:

(a) For the opening of humanitarian relief corridors to prevent death and deprivation of the civilian population, and to open Tuzla airport to relief deliveries;

(b) For the provision of necessary medical and psychological care to victims of rape within the framework of programmes to rehabilitate women and children traumatized by war, and for coordination by all concerned in support of the social integration of child victims;

(c) For more generous international assistance to refugees fleeing the conflict, and to the States which receive them;

(d) For increased support to initiatives to assist persons displaced by the conflict, with attention to the special needs of urban families and orphans, and

(e) For the creation of a voluntary fund to provide economic and social aid to assist the reconstruction of destroyed villages and towns;

36. Recommends that there be a human rights component in any internationally negotiated arrangements for Bosnia and Herzegovina and that implementation of such a component be conducted in close cooperation with the Special Rapporteur and the Centre for Human Rights;

37. Decides to extend the mandate of the Special Rapporteur for one year, and requests that he continue his efforts, especially by carrying out all such further missions as he deems necessary, and that he continue to submit periodic reports, as appropriate, on the implementation of the present and other relevant human rights resolutions to the Commission and the General Assembly, and to request the Secretary-General to continue to make the Special Rapporteur's reports available to the Security Council and to the International Conference on the Former Yugoslavia;

38. Requests the Secretary-General to take steps to assist in obtaining the active cooperation of all United Nations bodies to implement

the present resolution and, pursuant to paragraph 27 of General Assembly resolution 48/153, to provide the Special Rapporteur, within the overall budgetary framework of the United Nations, with additional resources and all other necessary assistance to enable him to fulfil his mandate, in particular, to provide for the appointment of field staff in Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia (Serbia and Montenegro) to provide first-hand, timely reports on the situation of human rights there;

39. Decides to remain seized of this matter.

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